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 COUNTRY CLUB VILLA APARTMENTS and
 DAVE CORTESE

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ERIK ESTAVILLO,	)	Case No. 5:23cv-04032-VKD
)	
Plaintiff,	)	REPLY MEMORANDUM OF POINTS
	)	AND AUTHORITIES TO PLAINTIFF'S
v.	)	OPPOSITION TO MOTION TO
	)	DISMISS COMPLAINT
DAVE CORTESE (CA. STATE)	
SENATOR), COUNTRY CLUB VILLA	)	Date: November 28, 2022
APARTMENTS,	)	Time: 10:00 a.m.
Defendants.	)	Courtroom: 2, 5th Floor
	)	Judge: Magistrate Virginia K. Demarchi
)	
	)	Action Filed: 6/13/23
	)	Trial Date: TBD

I.

INTRODUCTION

Plaintiff provides no cogent legal or factual argument as to why his Complaint in this action, which exactly mirrors the allegations pled in his state-court complaint previously filed against Defendants in Santa Clara County, should not be dismissed. Plaintiff's improper claim-splitting requires Defendants to defend the same action in two different jurisdictions, needlessly doubling Defendants' costs and burdening this Court with repetitive claims. Plaintiff would not suffer any prejudice whatsoever as a result of such dismissal, as he can continue to pursue the state-court action. Defendants therefore respectfully request that the Court dismiss this Complaint.

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II.

LEGAL ARGUMENT

The purpose of preventing this sort of claim-splitting is to protect parties from dealing with repetitive claims and to promote judicial economy and convenience, and dismissal of a repetitive claim is required in such case. Bojorquez v. Abercrombie & Fitch Co., 193 F. Supp. 3d 1117, 1123 (C.D. Cal. 2016). The rule is intended to “prevent the same plaintiff from filing multiple suits alleging the same claims against the same defendant when one suit will do.” Beckerley v. Alorica, Inc., 2014 WL 4670229, at 4 (C.D. Cal. 2014). Here, Plaintiff has simply filed the same complaint twice: once in state court in April 2023, and then in federal court in August 2023, where both allege the same “civil rights” cause of action. In fact, both are predicated on the same alleged violation of the Americans with Disabilities Act. The two complaints have the same exact set of facts, as set forth in Defendants’ Motion to Dismiss and as shown in Plaintiff’s state-law complaint filed in Santa Clara Superior Court, attached to Defendant’s Request for Judicial Notice as Exhibit A. While this Court has authority to permit this parallel case to proceed as the two cases are not filed in the same court, Defendants respectfully request that the Court elect not to do so to prevent Defendants from incurring needless and double costs. Defendants are currently forced to defend the same claims in two different actions, and the rule against claim-splitting is meant to protect against exactly the position in which Defendants now find themselves.

III.

CONCLUSION

For the reasons set forth above and in Defendants’ Motion, Defendants respectfully request that the Court grant its Motion to Dismiss the instant Complaint.

DATED: November 2, 2023

SPENCER FANE LLP
A Professional Law Corporation

By: 
Eric J. Stephenson, Esq.

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